REMARKS

Claims 25, 39-42 and 63-65 are currently pending. Claims 25, 39-62 and 66 are withdrawn as non-elected claims.

Claims 63-65 are rejected in the Office Action mailed October 19, 2005 as anticipated by U.S. Pat. App. Pub. No. 2002/0004782, to Cincotta. These rejections are respectfully traversed, for the reasons provided below.

I. The Right to Take College Courses is Not Freely Transferable

Claim 63 has been amended to more clearly delineate its intended scope. In particular, the limitation "freely transferable" is believed to clearly distinguish the claim from the surprising reference cited by the Patent Office. As explained in more detail below, Cincotta says nothing about an option to purchase a freely transferable right to attend. If John Smith's son Bob is admitted to Harvard and his tuition is paid via Cincotta's method (i.e., John Smith is a participant and Bob Smith is a beneficiary), Bob Smith has the right to take courses at Harvard– but he cannot transfer that right to anyone else, and neither can his father. As also explained below, there are several other reasons why the method taught by Cincotta is not covered by claims 63-65.

II. The Options In Cincotta Do Not Become Worthless

The call options taught by Cincotta do not become worthless if some threshold event fails to occur (as required by amended claim 63). There is no indication in Cincotta that a participant would lose his premium under any circumstances.

II. The Office Action Ignores Certain Claim Limitations Absent from Cincotta

There are limitations in claim 63-65 that are not discussed in the Office Action (and thus not alleged to be present in Cincotta). For example, the method of claim 64 comprises "creating a computer based exchange . . . operable to trade . . . attendance right options." Nothing in Cincotta mentions creating an exchange, nothing mentions any sort of exchange at all, and nothing suggests that the "call options" of Cincotta could be exchanged among participants. The

only reference to transferability of the call options (which, as explained below, are not attendance right options) is at paragraph 0072, which is cited in the Office Action. But paragraph 0072 is directed only to having a *single* participant (for example, a parent) substitute one beneficiary for another. And in this substitution the participant – the holder of the option – does not change. Thus, Cincotta fails to teach any of the limitations of claim 64 quoted above: no exchange, no trading, and (as explained below) no attendance right options.

Also, Cincotta says nothing about linking the computer of the Administrating Company to participant computers over a data communication link, as required by claims 63-65. Paragraph 0022 mentions linking workstations, but those appear to be workstations of the Administrating Company only. There appears to be no mention at all in Cincotta of participant computers.

III. The Office Action Misreads Cincotta

An attendance right option, as the term is used in claims 63-65 (as currently amended), is "a binding agreement between a ticket provider and a holder of said option" that "entitles said holder to purchase a freely transferable right to attend" a specified event. Applicant respectfully submits that the Patent Office has not accorded due weight to all of these terms. The call options taught by Cincotta do not entitle the *participants* (option holders) to *attend* anything. Those call options only entitle a holder to use his premium to pay for tuition (or a portion thereof) at a particular college *if* the beneficiary (not the participant) manages to gain admittance to that college and *if* the Administrative Company manages to purchase an appropriate forward contract from that college (and *if*, as noted in the Office Action, the participant chooses to send the beneficiary to that college).

Moreover, the call options of Cincotta do not provide even the beneficiaries with the right to attend a particular college. Again, a beneficiary has the right to attend a particular college *only* if the beneficiary has been admitted to that college. If the Patent Office chooses to argue that having the beneficiary admitted to the college qualifies as a "threshold event" as required by claim 63, then the Patent Office would be asserting that the right to attend, in claim 63, can be

contingent on obtaining the right to attend – a construction inconsistent with both Applicant's specification and the plain meaning of the term "contingent." More on this below.

IV. The Office Action Misconstrues Several Claim Terms

Applicant respectfully notes that the Patent Office is not free to construe claim terms in an unreasonable manner. Claims terms must be construed as they would be understood by one skilled in the art. Applicant realizes that during examination "the claims must be interpreted as broadly as their terms *reasonably* allow." MPEP § 2111.01(I). But this "means that the words of the claims must be given their plain meaning unless applicant has provided a clear definition in the specification." *Id.* "'Plain meaning' refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art." MPEP § 2111.01(II) (heading). "It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the 'ordinary' and the 'customary' meaning of the terms in the claims." *Id.*

In light of the above standards, it is clear that the Patent Office's interpretations of many of the terms of claims 63-65 are improper.

For example, claim 65 requires that the right to attend corresponds to a ticket. Colleges and universities, as most people know, do not provide tickets that allow the ticket holder to attend the college or university. Cincotta teaches only providing funding, via a forward contract with the college and a premium paid by a participant, for a participant's designated beneficiary to attend that college if the beneficiary can obtain admittance to that college. Cincotta says nothing about a ticket, and one skilled in the art (of either the present invention or Cincotta's invention) would not understand that one could attend college simply by obtaining a ticket.

Another example is the implicit usage of the term "event" in the Office Action to refer to "obtaining a certain number of college credits for oneself." One skilled in the art would not be likely to construe the term "event" in such a manner. In any case, claim 63, as currently amended, now limits the specified event to an event capable of being attended by two or more people. This limitation is believed to more clearly exclude the "event" of "obtaining a certain number of college credits for oneself."

V. Cincotta is Non-Analogous Art

Although this objection is usually reserved for § 103 references, Cincotta is non-analogous art. It is not in Applicant's field of invention (creating attendance right options and a network-based exchange for such options), and is unrelated to the problem to which Applicant's invention is directed (allowing those interested in attending not-yet-certain-to-occur events to secure the right to attend those events if they occur, and to trade that right to others). Cincotta is simply an interesting variant on college savings plans, and would not be known to or consulted by someone confronted with the problem solved by Applicant's invention.

In light of the above discussion, the rejections of claim 63-65 are believed to be successfully traversed, and prompt allowance of these claims will be appreciated.

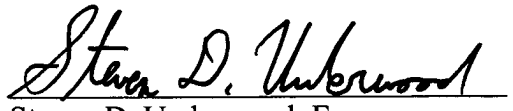
Applicant respectfully notes that it is improper to ignore arguments made in response to office actions. See MPEP § 707(f): "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." Several of Applicant's arguments in the response mailed September 7, 2005 regarding the impropriety of the Restriction Requirement in the office action mailed August 16, 2005 were not addressed in the present Office Action. Applicant maintains, for purposes of possible appeal, the arguments made in the September 7, 2005 response.

No statements made herein are intended to reduce the scope of the claims beyond that dictated by the plain wording of the claims themselves. Arguments regarding claim limitations are intended to apply only to claims explicitly possessing those limitations.

No fee is believed to be due with this Response. However, if any fee is due, please charge that fee to Deposit Account No. 50-0310.

Respectfully submitted,

Dated January 19, 2006



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